



Procurement 101

Bureau of Federal Compliance
in accordance with Uniform Guidance



New Hampshire
**Department
of Education**

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Procurement

Cambridge Dictionary defines *Federal Procurement* as:

“The buying of goods and/or services, especially when all companies have the opportunity to provide those goods and services. Federal procurement rules are designed to ensure competition and protect taxpayers from abuse and fraud.”

But First...

- Costs must meet the following general criteria in order to be allowable under a Federal award (2 CFR 200.403):
 - Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
 - Conform to any limitation or exclusions set for in these principles or in the Federal award as to types or amount of cost items.
 - Be consistent with policies and procedures
 - Be accorded consistent treatment
 - Be determined in accordance with generally accepted accounting principles (GAAP)
 - Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period
 - Be adequately documented
 - Cost must be incurred during the approved budget period

Is it Reasonable?

- Per 2 CFR 200.404, a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.
- In determining reasonableness of a cost, there are five factors that must be given consideration:
 - Is the cost ordinary and necessary for the operation and efficient performance
 - Restraints or requirements set by sound business practices and other laws and regulations (state, local, Federal, tribal, etc.)
 - Market prices in the geographical area
 - Whether the individuals concerned acted with prudence
 - Whether the non-Federal entity deviates significantly from established policies and practices

Procurement Standards

- If a procured product or services is determined to be allowable, reasonable, and necessary and the non-Federal entity pursues procurement of such item or services then regardless of the procured cost, procurement standards must be met.
 - The non-Federal entity must have and use documented procurement procedures
 - Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with their contract
 - The non-Federal entity must maintain written standards of conduct
 - The non-Federal entities procedures must avoid acquisition of unnecessary or duplicative items

Procurement Standards Cont'd

- The non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate
- The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment
- The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects
- The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully

Procurement Standards Cont'd

- The non-Federal entity must maintain records sufficient to detail the history of procurement
- The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price
- The non-Federal entity alone must be responsible for the settlement of all contractual and administrative issues arising out of procurements.

Methods of Procurement

Purchase Type	Threshold	Characteristics and Requirements
Micro-Purchase	Less than \$10,000	<ul style="list-style-type: none"> No bid or quote process required No cost or price analysis required Should be distributed among a range of qualified vendors
Small Purchase	Less than \$250,000	<ul style="list-style-type: none"> Price or rate quotes required from an adequate number of sources Should be distributed among a range of qualified vendors
Sealed Bids	Above \$250,000 (current SAT)	<ul style="list-style-type: none"> Bids must be publicly solicited Two or more bidders are willing and able to compete and qualified to do the work
Competitive Proposals	Above \$250,000 (current SAT)	<ul style="list-style-type: none"> Complete adequate and realistic specifications or purchase description is available Firm fixed-price contract is feasible, a bidder can be selected based on price Requires a request-for-proposal (RFP) process and solicitation of an adequate number of bidders Written method of evaluation, considering price as well as other factors advantageous to the program
Non-Competitive	Any dollar amount	<ul style="list-style-type: none"> Item available from a single source Public exigency or emergency won't permit a delay resulting from competition Expressly authorized via written request by the awarding agency (NHDOE) Competition is determined to be inadequate after solicitation Procurement is less than the micro-purchase threshold

Note: If your policy is more restrictive than that mentioned here (per 2 CFR), then follow the more restrictive policy.

Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

- Per 2 CFR 200.321, the non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible (if not possible, documentation must be provided for each instance of impassibility).
 - Solicitation list
 - Solicited whenever possible
 - Inclusion
 - Requiring prime contractors to take these affirmative steps also

Domestic Preference

- Per 2 CFR 200.322, as appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

Contract Cost and Price

- The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the SAT (currently \$250,000) including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, ***the non-Federal entity must make independent estimates before receiving bids or proposals*** [2 CFR 200.324 (a)].

Contract Cost and Price Cont'd

- The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work [2 CFR 200.324 (b)].

Contract Cost and Price Cont'd

- Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles [2 CFR 200.324 (c)].
- The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used [2 CFR 200.324 (d)].

POP

QUIZ!

Questions # 1

What is the current micro-purchase threshold?

\$10,000

Purchases below the micro-purchase threshold of \$10,000 require no bid or quote process so long as the price is reasonable and is distributed among a range of qualified vendors.

Questions #2

The non-Federal entity must ____ and ____ documented procurement procedures.

Have/Use

The non-Federal entity must not only have procurement procedures in place, but they must also use them. These will be reviewed as part of the monitoring process.

Questions #3

True or False.

The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the SAT (currently \$250,000). This must be done before receiving bids or proposals.

True

2 CFR does not state what a cost or price analysis needs to entail, however documentation that such analysis was performed must be retained per record retention policies in support of the procurement.

Questions #4

True or False.

Domestic preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States shall be stated in all contracts and purchase orders for work or products.

True

Per 2 CFR 200.322, such a statement and effort for domestic preference must exist for all procurement of goods and services.

ANY QUESTIONS?

WHEN? HOW? WHERE? WHO? WHAT? WHERE? WHAT? WHEN? WHEN? What? Where? WHERE? HOW? WHEN? What? What? When? WHEN? WHAT? WHERE? HOW? WHEN? What? When? HOW? WHAT? WHEN? Why? WHEN? When? Where? WHAT? When? What? WHEN? Why? WHERE? When? HOW? When? Why?

Resources

- EDGAR, 2 CFR 200
- NHDOE Federal Funds Fact Sheet. Procurement. [procurement.pdf \(nh.gov\)](#)
- Cambridge Dictionary. *Federal Procurement*. [FEDERAL PROCUREMENT | definition in the Cambridge English Dictionary](#)

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